

Helsinki, 27 June 2012
PUBLIC

**PRELIMINARY CONCLUSIONS
OF THE 26TH MANAGEMENT BOARD MEETING
ON 20-21 JUNE 2012**

1. Opinion of the Agency's final accounts for 2011

The Board took note of the Agency's accounts for 2011 and the preliminary observations of the Court of Auditors thereon. The Executive Director had finalised the accounts on 19 June upon receipt of the Court's preliminary observations. There were no further changes made compared to the draft final accounts submitted to the Board on 8 June.

Based on a recommendation of the working group on audit, the Board then adopted its opinion on the accounts. In this opinion, it addressed in particular the issue of budgetary carry-overs. The Board noted that it has agreed with the Executive Director in the context of the annual work programme on an annual ceiling of 15% of the total budget for carry-overs which was met in 2011. The Management Board expressed its support for the Executive Director's efforts to implement the Court's comment. However, the Board was aware of the fact that an adaptation in the direction of decreasing the carry-over rate may have consequences on the budget execution for 2012.

The Board's opinion and the final accounts will be forwarded by 1 July 2012 to the European Parliament, the Council, the Commission and the Court of Auditors.

2. First amending budget 2012

The Board adopted a first amendment to ECHA's 2012 budget and establishment plan. The amendment concerns the inclusion of the remaining balance from 2011 and the incorporation of the EU subsidies and posts for Biocides and PIC Regulations to the budget and establishment plan.

3. Multi-annual Work Programme 2013-15

The Management Board adopted the Agency's Multi-annual Work Programme (MAWP) 2013-2015, outlining the planned activities for the coming three years. With the entry into force of Biocides and PIC¹ regulations, ECHA will start with entirely new tasks. Other challenges are the REACH registration deadline 2013 and the start of authorisation applications. The increasing number of tasks will force ECHA to further focus on efficiency and right priority-setting.

For the first time, the priorities of the MAWP are set by ECHA's four strategic aims: maximise the availability of high quality data; mobilise authorities to use data intelligently; address scientific challenges; and embrace current and new legislative tasks efficiently and effectively. These aims guide the Agency's work in managing all regulatory tasks.

When reviewing the feedback from the public consultation of the draft endorsed by the Management Board in its March meeting, and in particular

¹ Prior Information Consent on Export and Import of Hazardous Substances

a contribution submitted on behalf of the European Parliament's Committee for Environment, Public Health and Food Safety, the Board held an extensive exchange of views on the first strategic aim and the further strategic steps needed to improve the quality and compliance of registration dossiers. An amendment to that effect in the MAWP was agreed. The Board will return to this issue in its September meeting. Other amendments in response to comments received were also agreed.

The Board instructed the Executive Director to forward the adopted MAWP to the Member States, the European Parliament, the Council and the Commission and to have it published on the ECHA web site.

4. ECHA Financial Outlook for 2014-2020 and assessment of subsidy needs

The Board discussed ECHA's financial perspectives for 2014-2020. It took note of the level of EU subsidy that the Commission proposed to make available for ECHA during 2014-2020 under the next EU multi annual financial framework. This maximum EU contribution for REACH and CLP activities has been proposed to be fixed at € 385 million over that period. Based on the assumptions and calculations made by ECHA, the needed balancing subsidy for REACH and CLP amounts was deemed higher than currently foreseen in the Commission proposal. It was noted that further reductions of the subsidy in the final budget would lead to substantial problems for the Agency's long term ability to deliver on its mandate.

A formal REACH Fee regulation review will take place by 1 January 2013. Several members supported the Secretariat's assessment that new categories of fees should to be introduced to secure its financing in the current budgetary outlook, for example for inquiries and registration updates in response to compliance decisions. An adaption to the annual inflation was also noted as necessary to secure ECHA's financing in the future.

The Board will return to ECHA financial outlook for 2014-2020 in the light of budgetary developments in the EU institutions.

5. Revision of the Decision on administrative charges under the Fee Regulation (MB/29/2010)

Based on a proposal by the Secretariat and by way of follow up of discussions at the last Board meeting, the Board modified slightly downwards the present scale on administrative charges in cases where registrants incorrectly claim to be entitled to reduced fees for small and medium-sized companies (SMEs). As agreed in March, ECHA will move in future to a systematic check of the SME status of registrants.

The Board also agreed to a 50% reduction in the administrative charge if the registrants admit their mistake immediately after being contacted by ECHA to prove their SME status and are providing when needed any relevant documentation to prove their status.

The decision was taken subject to a favourable opinion by the Commission.

6. Revision of the Decision on transfer of fees to Member States (MB/65/2010/D)

The Management Board adopted by a majority vote a revised Decision on the financial arrangements for the transfer of a proportion of fees to the Member States, subject to a favourable opinion of the Commission. One member attending on behalf of a Member State representative expressed a reserve.

The revision was prepared by the working group on the transfer of fees, chaired by Ms Nina CROMNIER. It concerns the transfer of fees to the Member States for the work related to substance evaluation and rapporteurs' work in RAC or SEAC with restrictions or applications for authorisation. Taking into account the feedback from the Member States, the current system had been adjusted so that the differences in payments to the Member States would be reduced. However, the system still takes the different salary and living costs in the Member States into account. Also several other modifications concerning the calculation of payments were introduced: a new man day rate as a base for the payments, new number of man days for the rapporteurs' work, a possibility for a pre-payment for substance evaluation and a new ceiling for the total amount of the transfers in proportion to fee revenue of ECHA over 2013-2015.

The decision was taken subject to a favourable opinion by the Commission.

7. Implementation of ECHA's policy on managing (potential) conflicts of interest

The Management Board heard from the progress made by the Agency in implementing the new policy on conflict of interest adopted in September 2011, as nominations for the Ethical Committee and internal work instructions.

It agreed that the eligibility criteria for members of ECHA's bodies, the Board of Appeal as well as for the Executive Director would be dealt with in September meeting. This would allow the Board to take into account the special report of an expected Court of Auditors special report on conflicts of interest covering ECHA.

8. Appointment of Committee members

The Board renewed the following memberships to take effect from 17 December 2012:

- Mr José Luis TADEO for the Committee for Risk Assessment
- Ms Liliana Luminita TIRCHILA for the Committee for Socio-Economic Analysis

9. Amendment to the Standard Security Requirements for REACH-IT and IUCLID Member State database access

The Management Board approved the revised Standard Security Requirements for REACH-IT and IUCLID Member State database access. The changes had been agreed by the Security Officers' Network in May 2012.

The Member State Competent Authorities will be duly informed and requested to acknowledge the changed requirements.

10. Report from the Executive Director

The Board took note of the report of the Executive Director on the activities of ECHA since the last Board meeting. Board members thanked the Executive Director for the comprehensive report and impressive achievements.

The following discussion focused on the reporting on compliance checks, completeness checks and risk management measures.

11. ECHA Review Study – Article 75(2) of the REACH Regulation

The Board took note of the final report of the ECHA Review Study pursuant to Article 75(2) of the REACH Regulation. Its main recommendations concerned transparency, capturing the learning of ECHA's start-up period, efficiency, stakeholder management and sharing of information.

The Board congratulated ECHA for the recognition of its achievements in the set up phase. It was noted that the recommendations were systematically followed up by the Agency and encouraged ECHA to publish its feedback.

12. Report from the Chair of the Board of Appeal

The Chair of the Board of Appeal, Ms Mercedes ORTUÑO, gave an update on recent developments, as current appeals, expertise and resources as well as future challenges.

An informative discussion took place during which questions regarding the Board of Appeal's work processes, the prediction of the future workload and the interactions with ECHA Secretariat were clarified.

13. Decision on remuneration of alternate / additional Board of Appeal members

The Board decided that alternate and additional Board of Appeal members (AAMs) should be paid for attendance at the annual meeting of the Board of Appeal which be made more interactive but unrelated to specific pending appeals. After one modification, the Management Board adopted an amended decision on remuneration of the AAMs.

14. Report from Management Board subgroups

The Board was informed about the state of play with the Board's subgroups on audit matters and on dissemination.

Audit

The Board took note of the annual audit reports of the Commission's Internal Audit Service and the ECHA Internal Audit Capability. The Co-Chair of the working group on audit, Mr Karel BLAHA, informed the Board of the findings and appreciation by the working group of the audit work undertaken so far this year.

Dissemination

The Chair of the advisory group on dissemination, Mr Antonello LAPALORCIA provided feedback from the last meeting on 16 May and ongoing issues. The main topics were dissemination of information from authorisation applications, a stakeholder engagement study to improve the dissemination portal, publication of identity of notifiers to the Classification and Labelling inventory and future publication of non-confidential versions of operational ECHA decisions. He also informed of ongoing written consultations.

15. Stakeholder and case-owner participation in the authorisation process

The Board was informed about ECHA's proposed approach towards stakeholder organisations and case-owners in the authorisation process. The general principle is that stakeholder observers should be able to witness opinion-making deliberations, but not influence them. Case-owners should be excluded from Committees' plenary meetings for logistical and independence reasons. However, during opinion-making ECHA would organise a hearing with case-owners, stakeholders observers and third parties who expressed a strong interest during public consultation.

To find the right balance between transparency, efficiency and confidentiality, ECHA will continue to elaborate the issue in the near future.

16. Additional items for information

The Board was informed about ECHA's discharge for 2010 and the outcome of the written procedure MB/WP/02/2012 appointing an Austrian member for the Committee for Risk Assessment.

17. Any other business

- *Written procedure for amending the Rules of Procedure of MSC*

A written procedure will be launched.

- *Annual appraisal ED/BoA*

The Chair informed of the annual appraisal exercise for the Executive Director and the members of the Board of Appeal.

- *Update from the Forum*

The Chair of the Forum, Ms Szilvia DEIM, informed the Board about the outcome of the Forum meeting which took place 19-20 June.

- *Procedure for selecting a Chair of the Management Board*

The election of a new Chair for the Board takes place at the next Board meeting. The mandate of the new Chair will start on 1 October 2012 for a term of two years. An election note will be sent before the September meeting, informing about the procedure and inviting for candidatures.

- *Budget 2013*

The Board received an update on the annual budgetary procedure.

- *Review of Management Board working methods*

A workshop on the review of the Board's working methods is foreseen to take place back-to-back with the September Board meeting. A survey will be sent out to Board members and its results will be available at the workshop.

- *Written consultation on Work Programme 2013*

A written consultation on the Work Programme 2013 will start after the Board meeting with a deadline for comments by mid August.

- *2nd MSCA Directors meeting*

A planning meeting for MSCA Directors will be held on 8 November 2012 at ECHA.

The next meeting of the Management Board will take place on **27-28 September 2012** in Bucharest.
